

Notice of Allowability

Application No.

09/905,558

Examiner

Medina A Ibrahim

Applicant(s)

GARNAAT ET AL.

Art Unit

1638

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed 01/09/04.
2. ☒ The allowed claim(s) is/are 37-40 and 53-56 renumbered as 1-2, 7-8, 3-6, respectively.
3. ☒ The drawings filed on 06/12/03 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: _____.
5. ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____.
 - (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892) | 5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6 <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No. <u>02-4</u> . |
| 3 <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No. _____ | 7 <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9 <input type="checkbox"/> Other |

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Karen Varley on 2/10/04.

The application has been amended as follows:

In The Title:

The Title is replaced with ---AUXIN RESPONSIVE PROMOTER SEQUENCES AND METHODS OF USING THE SAME---.

In The Claims:

Claim 37 (Currently amended). An isolated promoter [polynucleotide comprising a transcriptional regulatory element] responsive to the presence of auxin, wherein said promoter [polynucleotide] is selected from the group consisting of: SEQ ID NO[S]: 3, SEQ ID NO: 4, [and] SEQ ID NO: 16 , [;] nucleotides 647-1307 of SEQ ID NO: 3 , [;] nucleotides 647-1307 of SEQ ID NO: 4 , [;] and nucleotides 647-1306 of SEQ ID NO: 16.

In claim 38, "an" in line 3 has been replaced with ---the---.

Claim 39 (Currently amended). A method of [selectively inducing altered] altering the expression level of a polynucleotide [a gene] of interest in a plant, said method comprising stably incorporating into the genome of said plant the expression cassette of

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Claim 53[38] and [inducing activation of the transcriptional regulatory element by] exposing said plant to an auxin, wherein the promoter induces transcription of the polynucleotide of interest.

Claim 40 (Currently amended). The method of Claim 39, wherein said [induced alteration in gene expression] transcription of the polynucleotide of interest occurs in one or more tissues selected from the group consisting of anther [tissue], tapetum [tissue], and meristem [tissue].

Claims 45-48 have been deleted.

Claim 53 (New). A host cell comprising the recombinant expression cassette of Claim 38.

Claim 54 (New). A plant cell comprising the recombinant expression cassette of Claim 38.

Claim 55 (New). A transgenic plant comprising the plant cell of Claim 54.

Claim 56 (New). A transgenic seed from the transgenic plant of Claim 55.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Medina A. Ibrahim whose telephone number is (571) 272-0797. The Examiner can normally be reached Monday -Thursday from 8:00AM to 5:30PM and every other Friday from 9:00AM to 5:00 PM. Before and After final responses should be directed to fax nos. (703) 872-9306 and (703) 872-9307, respectively.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Dr. Amy Nelson, can be reached at (571) 272-0804.

2/14/04
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